FORT ORD REUSE AUTHORITY

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SPECIAL MEETING
FORT ORD REUSE AUTHORITY BOARD OF DIRECTORS
Thursday, October 26, 2017 at 4:00 PM
910 2nd Avenue, Marina, CA 93933 (Carpenters Union Hall)

AGENDA

THE BOARD AND PUBLIC ARE URGED TO SUBMIT WRITTEN QUESTIONS/CONCERNS BY NOON OCTOBER 25, 2017.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

4. ROLL CALL

FORA is governed by 13 voting members: (a) 1 member appointed by the City of Carmel; (b) 1 member appointed by the City of Del Rey Oaks; (c) 2 members appointed by the City of Marina; (d) 1 member appointed by Sand City; (e) 1 member appointed by the City of Monterey; (f) 1 member appointed by the City of Pacific Grove; (g) 1 member appointed by the City of Salinas; (h) 2 members appointed by the City of Seaside; and (i) 3 members appointed by Monterey County. The Board also includes 12 ex-officio non-voting members.

5. BUSINESS ITEMS **INFORMATION/ACTION**

*BUSINESS ITEMS are for Board discussion, debate, direction to staff, and/or action. Comments from the public are **not to exceed 3 minutes** or as otherwise determined by the Chair.*

a. Transition Planning Workshop (p.2)
Recommendation: Conduct a Transition Planning workshop as requested by the Board at its October 13, 2017 meeting. Receive staff briefing. Review/Consider Transition Task Force recommendations. Give direction to staff. Schedule follow-up meetings for this topic.

6. PUBLIC COMMENT PERIOD

*Members of the public wishing to address the Board on matters within its jurisdiction, but **not on this agenda**, may do so for up to 3 minutes or as otherwise determined by the Chair and will not receive Board action. Whenever possible, written correspondence should be submitted to the Board in advance of the meeting, to provide adequate time for its consideration.*

7. ITEMS FROM MEMBERS

Receive communication from Board members as it pertains to future agenda items.

8. ADJOURNMENT

NEXT REGULAR BOARD MEETING:
FRIDAY, NOVEMBER 17, 2017 | 2:00 PM

RETURN TO AGENDA

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RECOMMENDATION:

i. Conduct a Transition Planning Workshop;
ii. Receive Staff Briefing;
iii. Review/Consider Transition Task Force Recommendation;
iv. Provide Direction to Staff; and
v. Schedule follow up discussion/meetings for this topic.

BACKGROUND/DISCUSSION:

The Fort Ord Reuse Authority Board, at its October 13, 2017 meeting, heard introductory remarks from staff regarding the background and framework for complying with CA Legislative direction to complete a Transition Plan and present such to the Local Area Formation Commission (LAFCO) by the end of 2018. At the close of the initial presentation, several Board members suggested moving toward a workshop to more fully explore the options for Transition Planning that could best inform a path forward. Consequently, at the direction of the Board, staff has scheduled a Transition Planning workshop to address issues, legal framework, and questions related to formulation of the legislatively mandated transition plan required by Government Code section 67700(b)(2). A final Transition Plan will assign assets and liabilities, designate responsible successor agencies, and provide a schedule of remaining obligations. The final plan requires a majority vote of the Board. LAFCO is required to ensure that all contracts, agreements and pledges to pay or repay money are honored and properly administered. The plan is required to be submitted to the LAFCO **on or before December 30, 2018**.

This reports supplements the staff report of October 13, 2017, which is available on the FORA website. First, staff recognizes that what was presented in the staff report of October 13, 2017 was not the Transition Plan and expects there will be more focused meetings on responsible successor agency structure and how assets, liabilities and obligations will be assigned and implemented.

With respect to a Transition Plan approach, the Transition Task Force recommended:

1. The responsible successor entity be a single entity Joint Powers Agency; and
2. Seek legislative extension of CFD and other powers to the successor entity; and
3. Utilize Implementation Agreement/Percentage assignment for a jurisdiction's fair and equitable contribution to successor to complete FORA program.

Although, it is implied in the Authority Act, there is a fundamental direction that the Base Reuse Plan and its attendant obligations be fully implemented and addressed. Accordingly, the Transition Task Force considered a set of fundamental goals for the Transition Plan which were previously presented to the Board.

The basic components to the Transition Plan are found in FORA's current Capital Improvement Program (Obligations and schedule for improvements), Public Retirement System (CalPERS) contract requirements and the Environmental Services Cooperative Agreement munition and explosives cleanup, monitoring and reporting. This information has been presented to the Board, the Legislative Committee, and the Transition Task Force.

A list of transportation projects and a plan for assignment and completion is summarized and attached as **Exhibit A**. This list was presented and considered by your Transition Task Force. As identified by your Capital Improvement Program, the post 2020 projection for Transportation/Transit is estimated at $**115.5M**. Some key considerations include funding (who and how and attendant policy implications), who would implement projects in the absence of FORA, and how roadway priorities might be addressed. FORA Board currently has a policy of completing on-site projects first – while sustaining the obligation to also fund off site projects. A major consideration is that FORA CFD fee elimination, which funds basewide facilities and mitigation measures, alters the funding structure and results in multiple contract and equity issues. For example, the Transportation Agency of Monterey County is required to follow the Mitigation Fee Act (Government Code section 66000 and following) which requires a **nexus** to development. The FORA CFD is a **special tax** which does not require nexus.

The Transition Task Force was presented with information that should FORA sunset in 2020, the contract with Marina Coast Water District terminates by its terms and Marina Coast will control both the infrastructure and water to supply Fort Ord developments. Currently, that contract requires that Marina Coast serve all of Fort Ord development, existing and proposed. However, in the absence of FORA and the Facilities Agreement, future projects on Fort Ord will be required to annex to the Marina Coast Water District in order to receive water service from them. Accordingly, FORA staff assumed, based upon existing contract terms that water service and wastewater rights will be assigned to Marina Coast Water District. Water augmentation and waste water service, The Capital Improvement Program identifies **$17.8M** for water/water augmentation costs. If the CFD terminates, MCWD will need to add an assessment to its fee program to cover that CEQA requirement.

Regional habitat conservation is perhaps one of the largest components of the capital improvement program. A regional habitat conservation plan outlines and funds an ongoing plan for maintaining the regionally integrated habitat corridors and species preservation, restoring degraded habitat. In exchange, development, such as trails through habitat lands, and development and limited infrastructure are provided with a plan for how to mitigate impacts on habitat lands. The habitat conservation plan is projected to be broken down into two primary parts: one is habitat management, process and reporting, and the second is financing. It is currently projected that the management piece would be accomplished by a habitat cooperative (joint powers agency – JPA)). Currently FORA policy sets aside thirty percent (30%) of community facilities district fees to fund the habitat conservation. The Capital Improvement Program identifies $**46.2M** post 2020 fee. In the absence of the FORA CFD, a replacement revenue stream must be identified to meet the projected habitat conservation program financial requirements – including staffing/operations cost to support the habitat JPA.

The munitions and explosive clean up obligations are projected to be in the neighborhood of **$8-10M**. FORA staff has been seeking an amendment to the Army's grant to address this shortfall. Post-FORA it is anticipated that there will be ongoing requirements for construction support, land use control monitoring/reporting, and discovered ordnance procedures/action. It is anticipated (but not approved) that this obligation will be fully funded by the Army.

While the above, encapsulate the majority of FORA's obligations, there are additional liabilities which have been identified primarily as administrative obligations. The largest of those is the Cal PERS obligation for terminated agency unfunded liability. FORA Board, Finance Committee and staff have been keeping a close eye on that obligation as it is routinely adjusted based upon actuarial evaluations by CalPERS. The CalPERS hypothetical termination liability is between **$6.9M and $8.8M**. For fiscal year 2017, the Finance Committee and the FORA Board have set aside approximately **$7.3M** to address this projected liability. The more that this liability is funded, the financial risk associated with an assignment of this non-real property liability is reduced. The policy issue for the Board to address is: should all voting members be required to bear some responsibility for any portion of outstanding obligations/liabilities or should the entire amount be borne by only the underlying land holding jurisdictions?

Funding is key to assuring that the Capital Improvement Program is implemented. In the absence of FORA's Community Facilities District tax, the underlying land use jurisdictions will be required to create a **replacement funding** stream to address these issues. A basic understanding of how FORA's Capital Improvement Program is funded may assist the Board Staff has created a separate briefing memo addressing funding attached as **Exhibit B**. It is FORA staff's recommendation that at a minimum the Board consider directing staff to bring back language revisions to the Mello Roos statute to address building removal funding and assignment of FORA's CFD, thus preserving and promoting flexibility for assignment or creation of any new CFD's.

FORA has received multiple questions about the transition planning process. FORA staff appreciates the early nature of those questions and the opportunity to address them. Responses have been previously provided for some of these questions and additional responses will be provided at or before the meeting.

There are other policy issues which must be addressed in order to implement the above outlined obligations and liabilities.

- Should one entity be the successor agency or multiple agencies?
- Should all the jurisdictions create a JPA or just the ones that wish to create one?
- How is that addressed in the Transition Plan?
- What if one jurisdiction wishes to implement growth control and not build to full potential?
- How is this addressed? What are the considerations or issues associated with each?
- In the absence of assignment of FORA's CFD, how will revenues be generated and who will generate those?
- What are some of the pros and cons associated with a replacement funding structure?
- If there is no single entity successor, how will the projects in the Capital Improvement Program be prioritized and implemented?
- What is the forum for that and who controls priority?

These are complicated issues, legally, fiscally and politically. Some peoples' pros are another's cons. However, the Legislature charged FORA with fully transitioning the base to civilian use. FORA job is roughly forty percent (40%) complete, pursuant to the Annual Report and other reports. Staff does not expect the Board to come to resolution on all aspects of the Final Transition Plan, however, staff does require policy direction to refine documents to compile a comprehensive draft Transition Plan for the Board's consideration.

<u>FISCAL IMPACT</u>:

Reviewed by FORA Controller _____

Staff time/legal are within the approved annual budget. Earlier staff PowerPoint versions were presented to Finance Committee. As transition planning continues, staff anticipates presenting future transition plan budget items for Board consideration.

COORDINATION:

On October 4, 2017, the Administrative Committee reviewed the TTF recommendation as part of their review of the October 13, 2017 draft FORA Board Packet.

On September 28, 2017, the Legislative Committee considered the TTF recommendation and made no recommendation to change the Legislative Agenda until the Board's consideration of the TTF recommendation at the October 13, 2017 Board meeting.

On October 4, 2017, the Executive Committee considered the TTF recommendation and recommended the two October meetings format for discussion of this item, and stressed ample time for public participation and comment.

TTF, Administrative Committee, Executive Committee, Legislative Committee, Finance Committee, Legislative offices

Prepared by D. Steven Endsley Approved by Michael Houlemard
Steve Endsley Michael A. Houlemard, Jr.

Attachment A to Item 5a
FORA Board Meeting, 10/26/17

	Regional Improvements				
Lead	Proj#	Description	Obligation	Proposed Assignment	Est. Completion
TAMC/CalTrans	R3a	Hwy 1- Del Monte-Fremont MBL	14,099,438	TAMC	2025-2026
TAMC/CalTrans	R10	Hwy1-Monterey Road Interchange	3,746,225	TAMC	2026-2027
TAMC/CalTrans	R11	Hwy 156 Freeway Upgrade	17,662,896	TAMC	2024-2025
	Transit				
MST	T3	Transit Vehicle Purchase	9,189,359	MST	2024-2025
MST	T22	Intermodal Corridors	7,386,330	MST	2024-2025
	Off-Site Improvements				
Monterey County	1	Davis Rd north of Blanco	$ 720,208	CO	2025-2026
Monterey County	2B	Davis Rd south of Blanco	12,733,317	CO	2022-2023
Monterey County	4D	Widen Reservation-4 lanes to WG	9,390,281	CO	2025-2026
Monterey County	4E	Widen Reservation, WG to Davis	4,978,440	CO	2024-2025
City of Marina	8	Crescent Ave extend to Abrams	399,475	MARINA	2017-2018
City of Marina	10	Del Monte Blvd Extension	947,000	MARINA	
	On-Site Improvements				
City of Marina	FO2	Abrams	$ 1,127,673	MARINA	2019-2020
City of Marina	FO5	8th Street	6,443,262	MARINA	2021-2022
FORA	FO6	Intergarrison	6,324,492	CO	2021-2022
FORA	FO7	Gigling	8,495,961	SEASIDE	2020-2021
FORA	FO9C	GJM Blvd	1,083,775	DEL REY OAKS	2019-2020
City of Marina	FO11	Salinas Ave	4,510,693	MARINA	2021-2022
FORA	FO12	Eucalyptus Road	532,830	SEASIDE	2018-2019
FORA	FO13B	Eastside Parkway	18,611,779	CO	2024-2025
FORA	FO14	South Boundary Road Upgrade	3,733,921	DEL REY OAKS	2019-2020

FORA MEMO

DATE: October 23, 2017

TO: FORA Board

FROM: FORA Staff

RE: FINANCING LEGISLATION

A key component of the Fort Ord Reuse Authority Transition Plan will be to define/outline how post 2020 obligations will be resourced/financed – given the anticipated expiration of certain powers afforded FORA to complete its mission. As of 2017, FORA's Capital Improvement Program (CIP) staff and financial consultants project $179.5M in obligations remain post 2020, including: transportation/transit, water augmentation and habitat conservation. The CIP outlines both FORA's Base Reuse Plan (BRP) California Environmental Quality Act (CEQA) mitigations and basewide public facilities (financed primarily by Community Facilities District (CFD) fees) and building removal (financed primarily with a portion of land sales/leasing revenues). Currently, <u>entitled development</u>, assuming its full buildout, is projected to raise approximately $71M in fees and <u>proposed development</u>, as identified by the jurisdictions, is projected to raise approximately $51M in fees. This leaves a shortfall of approximately $57M possibly more if the jurisdictions do not go forward with entitled projects. The CIP currently addresses this shortfall through a combination of projected property tax and land sales revenues but they go away if FORA sunsets, unless specific provision is made to designate those revenues to post 2020 reuse activities. Currently, land sales revenues are first applied to building removal and then any excess is applied to reducing the CFD fee or other operations costs. This structure would have to be altered if any successor agency hopes to complete the BRP obligations.

Both the Board and the Transition Task Force (TTF) have identified that, in order to sustain fairness, extension or ability to assign FORA's CFD is an essential part of a Transition Plan. This Board unanimously approved the Legislative Agenda identifying this issue and the TTF majority included this as a key component to a transition plan. There are only two ways for FORA's existing CFD to be extended: 1) extend the FORA Act in some form or 2) amend Mello-Roos law, allowing for assignment.

Staff has identified to the Board and the TTF, that the CFD fees will terminate upon FORA's dissolution. There are three reasons for this termination. First, the language contained in the CFD states, this CFD will terminate upon FORA's ["termination or 2051 whichever is later."]. In the absence of such language or *alternative interpretation*, the CFD fee might be able to be assigned to a successor agency (or agencies). Second, the CFD fees were established in conjunction with the State of California CFD laws, Government Code section 53311 and following. Those sections do not provide for assignment. A bar to assignment is also found in the Mello-Roos Act section 53368.1. That section provides that a County may assign to a City or Cities by following the procedures outlined and written agreement. However, that does not address a Military Base Reuse Authority or special district, such as FORA, assigning or transferring the CFD to a successor agency (ies). Such an amendment would be necessary for FORA to make such a transfer/assignment to a qualifying successor(s). In the absence of an amendment to the Mello-Roos law, the only other options are extension of the FORA Act or re-creation of revenue streams by the Cities and County to replace this funding. The cities of Marina and Seaside are exploring options and have solicited for an independent financial consultant on this subject.

At a minimum, FORA staff recommends seeking an amendment to the Mello-Roos statute to allow assignment/transfer of the FORA CFD.

FORA staff has explored a second recommendation - to address the issue of Building Removal. As has been identified by staff at both Board and TTF meetings, the CFD funds are not legally able to be applied toward the removal of buildings. Accordingly, staff proposes that the Mello-Roos statute be narrowly amended to include building removal as an allowable public facility expense in the County of Monterey, in the instance that the removal facilitates the economic reuse of a former military base. This would provide jurisdictions in Monterey County with additional flexibility to pay for building removal with CFD funds. **Staff recommends seeking this amendment to Mello-Roos immediately.**

Staff believes that these two Mello-Roos amendments are necessary in order to support assignment of FORA's CFD and to offer an option for additional financing of building removal over that considered as part of the fair market value assessment and the supplemental support FORA voluntarily offered from land sales revenue. Additionally, in the instance that FORA's CFD is not able to be assigned, inclusion of building removal gives replacement CFD's more flexibility in addressing building removal. Additionally, given possible future military base closures in California, these amendments address gaps for future reuse authorities or joint powers agencies.

Additionally, a related issue associated with building removal is how to address the commercial financial market reluctance/risk aversion to finance building removal in advance of market demand. FORA previously sought a loan from the CA Infrastructure Bank in order to advance pay for building removal under the assumption that 1) clearing buildings might improve absorption/desirability of the parcels, 2) would have provided Developers/jurisdictions with a financing stream to address cash flow issues related to building removal, and 3) sped up property transfer that would have repaid the loan while increasing near term job development. This past year the CA Infrastructure Bank was amended in order to provide a wider range of eligible items to be financed. FORA staff recommends seeking an amendment to the CA Infrastructure Bank legislation to provide that building removal is an allowable expense for the sole purpose of implementing a military base reuse plan which promotes a balance of economic development and housing. As an interesting side note, the CA Infrastructure Bank was created by the Legislature in the same legislative calendar that FORA was created.

By including these potential legislative fixes in the problem solving tool box, useable by all potential successor agency structures, the FORA Board will have gone a long way toward solving future financing shortfall issues, should the Legislature so act.